

Notice of Allowability

Application No.

10/084,446

Examiner

Trenton J. Roche

Applicant(s)

CHOI ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to communications filed 2 November 2005.
2. ☒ The allowed claim(s) is/are 1-3, 5, 7-11, 13, 14, 16-21, 28-32, 34, 36 and 38 (renumbered as 1-25).
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

1. This Office Action is responsive to communications filed 2 November 2005.
2. Per Applicants' request, amended claims 1, 3, 11, 13, 14, 16, 20, 28, 30, 31 and 34 have been entered. Claims 6, 15, 33, 35, 37 and 39 have been canceled. Claims 1-3, 5, 7-11, 13, 14, 16-21, 28-32, 34, 36 and 38 are currently pending.
3. Claims 1-3, 5, 7-11, 13, 14, 16-21, 28-32, 34, 36 and 38 have been examined.

Response to Arguments

4. Applicants' arguments, see pages 11-15 of the Remarks, filed 29 August 2005, with respect to claims 1-3, 5-11, 13-21 and 28-39 have been fully considered and are persuasive. The rejection of claims 1-3, 5-11, 13-21 and 28-39 under 35 U.S.C. § 103(a) has been withdrawn.

Allowable Subject Matter & Examiner's Statement of Reason(s) for Allowance

5. Claims 1-3, 5, 7-11, 13, 14, 16-21, 28-32, 34, 36 and 38 (renumbered as 1-25) are allowed.
6. The following is an Examiner's statement of reasons for allowance:

The closest found prior art of record, specifically, U.S. Patent 5,666,293 to Metz et al. (hereinafter "Metz"), taken alone or in combination, fails to teach or reasonably suggest a method for upgrading a software of a television broadcasting signal receiving apparatus in accordance with independent claim 1. Specifically, Metz fails to disclose *a code detecting unit for detecting a software code included in an advertisement broadcasting signal during only broadcasting of an advertisement; a version comparing unit for comparing a version of the software code included in the advertisement broadcasting signal and a version of a previous software code installed on the television broadcasting signal receiving apparatus; and an upgrade processing*

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unit for installing software associated with the software code included in the advertisement broadcasting signal on the television broadcasting signal receiving apparatus if the version of the software code is newer than the version of the previous software code. (claim 1). Similar limitations are recited in independent claims 11, 28 and 30.

Instead, Metz discloses a set-top box device for storing a version number for an operating system that is currently running, and a broadcast data stream which includes operating system files for a number of different terminal types as well as data identifying the current broadcast version of the operating system for each type of terminal. The terminal will check the broadcast version number for its terminal type operating system. If the broadcast version number differs from the version number for the operating system the terminal currently is running, then the terminal will capture only the file containing the operating system for the corresponding terminal type. However, Metz fails to disclose the detection of software code included in an advertisement broadcasting signal during *only* (emphasis added) broadcasting of an advertisement. Note pages 12-14 of the Applicants' Remarks.

Any comments considered necessary by Applicants must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trenton J. Roche whose telephone number is (571) 272-3733. The examiner can normally be reached on Monday - Friday, 9:00 am - 5:30 pm.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (571) 272-3719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Trenton J Roche
Examiner
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TJR



WEI Y. ZHEN
PRIMARY EXAMINER